

## **REMARKS/ARGUMENTS**

In response to the Office Action mailed April 3, 2006, Applicants amend their application and request reconsideration in view of the amendments and the following remarks. In this amendment, claims 1, 7 and 8 are amended, claims 29-37 are cancelled without prejudice, and no claims have been added so that claims 1, 7 and 8 are currently pending. No new matter has been introduced.

Claims 1, 7 and 8 were rejected as being unpatentable over by U.S. Patent No. 6,280,466 to Kugler et al., (Kugler) in view of U.S. patent No. 5,665,117 to Rhodes (Rhodes). This rejection is respectfully traversed.

The MPEP, in section 706.02(j), sets forth the basic criteria that must be met in order to establish a *prima facie* case of obviousness:

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d, 488, 20 USPQ2d 1438 (Fed.Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.”

Section 2143.03 of the MPEP clarifies certain criteria in section 706.02(j).

“To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).”

Kugler fails to disclose a first prosthesis comprising a proximal section, a distal section and an intermediate section of the configuration claimed in amended Claim 1. Kugler fails to disclose one of the proximal or distal sections having a sealing material attached thereto that is different than graft material. Rhodes discloses an intraluminal prosthesis for use in a blood vessel. The device is made for use between the renal arteries and the iliac arteries. The device comprises a sleeve made of standard graft material, stents, outer balloon means and sealing means on each end. Neither of the references, whether taken alone or in combination discloses all the claimed elements. Specifically, there is no teaching or suggestion of separate devices wherein the bypass prosthesis passes through the distal section of a first prosthesis and a double seal is formed as set forth in the claim. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

A favorable action on the merits is earnestly solicited.

Respectfully submitted,

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